

United States Court of Appeals
For the Eighth Circuit

No. 13-2687

David Anthony Stebbins

Plaintiff - Appellant

v.

Rita F. Stebbins and David D. Stebbins

Defendants - Appellees

Appeal from United States District Court
for the Western District of Arkansas - Harrison

Submitted: November 6, 2013

Filed: November 12, 2013

[Unpublished]

Before SMITH, BOWMAN, and KELLY, Circuit Judges.

PER CURIAM.

Petitioner David A. Stebbins appeals from the judgment of the District Court¹ dismissing his pro se action. Upon review of the record, we conclude that we lack

¹The Honorable P.K. Holmes, III, Chief Judge, United States District Court for the Western District of Arkansas.

jurisdiction to entertain this appeal. See Dierker v. Cont'l Cas. Co., 440 F.3d 920, 923 (8th Cir. 2006) (explaining that jurisdictional issues “will be raised sua sponte”). Following the dismissal of his complaint, Stebbins filed what was in effect a timely motion for postjudgment relief under Rule 59(e) of the Federal Rules of Civil Procedure. See Osterneck v. Ernst & Whinney, 489 U.S. 169, 174 (1989) (“[A] postjudgment motion will be considered a Rule 59(e) motion where it involves ‘reconsideration of matters properly encompassed in a decision on the merits.’” (citation to quoted case omitted)). That motion remains pending, and until the District Court rules on it, Stebbins’s notice of appeal will lie dormant. See Fed. R. App. P. 4(a)(4)(A) (noting that if a party timely files a Rule 59 motion for a new trial or to alter or amend the judgment, the time to file the appeal runs from the entry of the order disposing of such motion); United States v. Duke, 50 F.3d 571, 575 (8th Cir.); cert. denied, 516 U.S. 885 (1995).

Accordingly, we dismiss this appeal for lack of jurisdiction.
